

Introduced by Senator Bowen

January 17, 2003

An act to amend Section 399.14 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 67, as introduced, Bowen. Energy: California Renewables Portfolio Standard Program.

Existing law establishes the California Renewables Portfolio Standard Program. The program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). Under existing law, the Public Utilities Commission may not require an electrical corporation to conduct procurement to fulfill the renewables portfolio standard until it is deemed creditworthy by the commission. Existing law requires the commission to direct electrical corporations to prepare, within 90 days of being deemed creditworthy, and to review and update as necessary, renewable energy procurement plans that are sufficient to satisfy its obligations under the renewables portfolio standard. Existing law requires the commission to allow an electrical corporation to recover, in rates, electricity procurement and administrative costs associated with long-term contracts reasonably incurred consistent with a renewable energy procurement plan approved by the commission.

This bill would instead require that the Public Utilities Commission not require an electrical corporation to conduct procurement to fulfill



the renewables portfolio standard until the commission determines either that the electrical corporation has attained an investment grade credit rating or that the electrical corporation is able to procure eligible renewable energy resources on reasonable terms, those resources can be financed if necessary, and the procurement will not impair the restoration of an electrical corporation's creditworthiness. The bill would clarify that the provision allowing an electrical corporation to recover, in rates, electricity procurement and administrative costs associated with long-term contracts applies to contracts entered into pursuant to the California Renewables Portfolio Standard Program.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 399.14 of the Public Utilities Code is
2 amended to read:

3 399.14. (a) The commission shall direct each electrical
4 corporation to prepare renewable energy procurement plans as
5 described in paragraph (3) to satisfy its obligations under the
6 renewables portfolio standard. To the extent feasible, this
7 procurement plan shall be proposed, reviewed, and adopted by the
8 commission as part of, and pursuant to, a general procurement plan
9 process. The commission shall require each electrical corporation
10 to review and update its renewable energy procurement plan as it
11 determines to be necessary.

12 (1) (A) The commission shall not require an electrical
13 corporation to conduct procurement to fulfill the renewables
14 portfolio standard until ~~it is deemed creditworthy by the~~
15 ~~commission upon it having~~ *the commission determines either of*
16 *the following:*

17 (i) *The electrical corporation has attained an investment grade*
18 *credit rating as determined by at least two major rating agencies.*
19 ~~Within~~

20 (ii) *The electrical corporation is able to procure eligible*
21 *renewable energy resources on reasonable terms, those resources*
22 *can be financed if necessary, and the procurement will not impair*
23 *the restoration of an electrical corporation's creditworthiness.*

24 (B) *Within 90 days of being deemed creditworthy as provided*
25 *in subparagraph (A), an electrical corporation shall conduct*

1 solicitations to implement a renewable energy procurement plan.
2 The creditworthiness determination required by this paragraph
3 shall apply only to the requirements established pursuant to this
4 article. The requirements established for an electrical corporation
5 pursuant to Section 454.5 shall be governed by that section.

6 (2) Not later than six months after the effective date of this
7 section, the commission shall adopt, by rule, for all electrical
8 corporations, all of the following:

9 (A) A process for determining market prices pursuant to
10 subdivision (c) of Section 399.15. The commission shall make
11 specific determinations of market prices after the closing date of
12 a competitive solicitation conducted by an electrical corporation
13 for eligible renewable energy resources. In order to ensure that the
14 market price established by the commission pursuant to
15 subdivision (c) of Section 399.15 does not influence the amount
16 of a bid submitted through the competitive solicitation in a manner
17 that would increase the amount ratepayers are obligated to pay for
18 renewable energy, and in order to ensure that the bid price does not
19 influence the establishment of the market price, the electrical
20 corporation shall not transmit or share the results of any
21 competitive solicitation for eligible renewable energy resources
22 until the commission has established market prices pursuant to
23 subdivision (c) of Section 399.15.

24 (B) A process that provides criteria for the rank ordering and
25 selection of least-cost and best-fit renewable resources to comply
26 with the annual California Renewables Portfolio Standard
27 Program obligations on a total cost basis. This process shall
28 consider estimates of indirect costs associated with needed
29 transmission investments and ongoing utility expenses resulting
30 from integrating and operating eligible renewable energy
31 resources.

32 (C) Flexible rules for compliance including, but not limited to,
33 permitting electrical corporations to apply excess procurement in
34 one year to subsequent years or inadequate procurement in one
35 year to no more than the following three years.

36 (D) Standard terms and conditions to be used by all electrical
37 corporations in contracting for eligible renewable energy
38 resources, including performance requirements for renewable
39 generators.

1 (3) Consistent with the goal of procuring the least-cost and
2 best-fit eligible renewable energy resources, the renewable energy
3 procurement plan submitted by an electrical corporation shall
4 include, but is not limited to, all of the following:

5 (A) An assessment of annual or multiyear portfolio supplies
6 and demand to determine the optimal mix of renewable generation
7 resources with deliverability characteristics that may include
8 peaking, dispatchable, baseload, firm, and as-available capacity.

9 (B) Provisions for employing available compliance flexibility
10 mechanisms established by the commission.

11 (C) A bid solicitation setting forth the need for renewable
12 generation of each deliverability characteristic, required online
13 dates, and locational preferences, if any.

14 (4) In soliciting and procuring eligible renewable energy
15 resources, each electrical corporation shall offer contracts of no
16 less than 10 years in duration, unless the commission approves of
17 a contract of shorter duration.

18 (5) In soliciting and procuring eligible renewable energy
19 resources, each electrical corporation may give preference to
20 projects that provide tangible demonstrable benefits to
21 communities with a plurality of minority or low-income
22 populations.

23 (b) The commission shall review and accept, modify, or reject
24 each electrical corporation's renewable procurement plan 90 days
25 prior to the commencement of renewable procurement pursuant to
26 this article by the electrical corporation.

27 (c) The commission shall review the results of a renewable
28 energy resources solicitation submitted for approval by an
29 electrical corporation and accept or reject proposed contracts with
30 eligible renewable energy resources based on consistency with the
31 approved renewable procurement plan. If the commission
32 determines that the bid prices are elevated due to a lack of effective
33 competition amongst the bidders, the commission shall direct the
34 electrical corporation to renegotiate such contracts or conduct a
35 new solicitation.

36 (d) If an electrical corporation fails to comply with a
37 commission order adopting a renewable procurement plan, the
38 commission shall exercise its authority pursuant to Section 2113
39 to require compliance.



(e) Upon application by an electrical corporation, the commission may authorize another entity to enter into contracts on behalf of customers of the electrical corporation for deliveries of eligible renewable energy resources to satisfy the annual portfolio standard obligations, subject to similar terms and conditions applicable to an electrical corporation. The commission shall allow the procurement entity to recover reasonable costs through retail rates subject to review and approval.

(f) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation for eligible renewable *energy* resources *pursuant to this article*, at or below the market price determined by the commission pursuant to subdivision (c) of Section 399.15, shall be deemed reasonable per se, and shall be recoverable in rates.

(g) For purposes of this article, “procure” means that a utility may acquire the renewable output of electric generation facilities that it owns or for which it has contracted. Nothing in this article is intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller’s obligation to comply with this article.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives or supplemental energy payments pursuant to Section 383.5, including, but not limited to, work performed to qualify, receive, or maintain production incentives or supplemental energy payments is “public works” for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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